

Article 1: Definitions and General Provisions

Division 2: Construction, Interpretation and Definitions

("Construction and Interpretation"

added 1-8-1990 by O-17408 N.S)

(Retitled to "Construction, Interpretation

and Definitions" on 8-10-1993 by O-17956 N.S.)

§11.0201 Construction

The provisions of this Code and all proceedings under it are to be construed with a view to effect its objects and to promote justice.

("Construction" renumbered from Sec. 11.03 on 1-8-1990 by O-17408 N.S.)

§11.0202 Effect of Code on Past Actions and Obligations Previously Accrued

Neither the adoption of this Code nor the repeal hereby of any Ordinance of this City shall in any manner effect the prosecution for violation of Ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty at said effective date due and unpaid under such Ordinance, nor be construed as affecting any of the provisions of such Ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any Ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

("Effect of Code on Past Actions and Obligations Previously Accrued" renumbered from Sec. 11.04 on 1-8-1990 by O-17408 N.S.)

§11.0203 References to Specific Ordinances

The provisions of this Code shall not in any manner affect deposits or other matters of record which refer to, or are otherwise connected with Ordinances which are therein specially designated by number or otherwise and which are included within this Code, but such references shall be construed to apply to the corresponding provisions contained within this Code.

("References to Specific Ordinances" renumbered from Sec. 11.06 on 1-8-1990 by O-17408 N.S.)

§11.0204 Effect of Heading

Chapter, Article, Division and Section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any Chapter, Article, Division or Section hereof.

(“Effect of Heading” renumbered from Sec. 11.07 on 1–8–1990 by O–17408 N.S.)

§11.0205 Validity of Code — Severability

If any section, subsection, sentence, clause, phrase, portion or provision of this Code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code. The Council of this City hereby declares that it would have adopted this Code and each section, subsection, sentence, clause, phrase, portion or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions or provisions be declared invalid or unconstitutional. This Section shall apply to all amendments heretofore or hereafter made to this Code.

(Amended (portions previously contained in former Sec. 95.0130) 8–10–1993 by O–17956 N.S.)

§11.0206 Conflicting Ordinances

If provisions of the Municipal Code are in conflict with each other, the more restrictive provisions shall apply.

(Amended (portions previously contained in former Sec. 95.0129) 8–10–1993 by O–17956 N.S.)

§11.0207 Numbering of Municipal Code Chapters, Articles, Divisions And Sections

The City Attorney, in consultation with the City Clerk and other affected departments, is hereby granted the authority to establish and modify, as necessary, the numbers for the various chapters, articles, divisions, sections, and parts of each within the Municipal Code without the necessity for City Council action.

(“Numbering of Municipal Code Chapters, Articles, Divisions And Sections” added 5–3–1993 by O–17909 N.S.)

§11.0208 No Mandatory Duty—Civil Liability

It is the intent of the City Council of the City of San Diego that any Municipal Code provision establishing performance standards or establishing an obligation to act by a City officer or employee, shall not be construed as creating a mandatory duty for

purposes of tort liability, if the officers or employees fail to perform their directed duty or duties.

("No Mandatory Duty—Civil Liability" added 8-10-1993 by O-17956 N.S.)

§11.0209 General Rules of Interpretation of Ordinances

For purposes of this Municipal Code:

- (a) Any gender includes the other gender.
- (b) "Shall" is mandatory; "may" is permissive.
- (c) The singular number includes the plural and the plural the singular.
- (d) Words used in the present tense include the past and future tense and vice versa.
- (e) Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language.

("General Rules of Interpretation of Ordinances" added 8-10-1993 by O-17956 N.S.)

§11.0210 Definitions Applicable To Code Generally

The following words and phrases whenever used in this Code shall be construed as defined in this section unless a different meaning is specifically defined elsewhere in this Code and specifically stated to apply:

"Abatement" means any action the City may take on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to demolition, removal, repair, boarding and securing or replacement of property.

"Administrative Enforcement Order" means an order issued by an Enforcement Hearing Officer after a hearing requiring a Responsible Person to correct violations, abate a public nuisance, pay civil penalties and administrative costs or take any other action as authorized or required by this Code and applicable state codes. The Enforcement Order may also include an order authorizing the City to abate a public nuisance or assess a Code Enforcement Lien.

"Abatement Notice" means a notice issued by a Director which requires a Responsible Person to abate a public nuisance.

"Cash Deposit" means that whenever a cash deposit is required as a condition of an application for activity related to a construction project under this Code, the term "cash" also includes certificates of deposit and assigned securities in the form of savings accounts.

"City" means the area within the territorial city limits of The City of San Diego and such territory outside of this City over which the City has jurisdiction or control by virtue of any Constitutional or Charter provisions, or any law.

"Code Enforcement Lien" means a lien recorded to collect outstanding civil penalties and administrative costs imposed as part of a cost recovery, administrative or judicial code enforcement action.

"Code Enforcement Performance Bond" means a bond posted by a Responsible Person to ensure compliance with the Municipal Code, applicable state codes, a judicial action or Administrative Enforcement Order.

"Council" means the City Council of this City.

"Director" means the City Manager or any Department Directors including the following Departments: City Clerk, Planning, Development Services, Engineering, General Services, Animal Control, Health, Water Utilities, Park and Recreation, Neighborhood Code Compliance, Environmental Services and the Fire and Police Chiefs, and any of their designated agents or representatives. "Enforcement Hearing Officer" means any person appointed by the City Manager to preside over administrative enforcement hearings.

"Enforcement Official" means any person authorized to enforce violations of the Municipal Code or applicable state codes.

"Financial Institution" means any person that holds a recorded mortgage or deed of trust on a property.

"Imminent Life Safety Hazard" means any condition which creates a present, extreme and immediate danger to life, property, health or public safety.

"Legal Interest" means any interest that is represented by a document such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien or other similar instrument which is recorded with the County Recorder.

"Notice and Order" means a document used in abatement and civil penalties actions which provides notice of Municipal Code or applicable state code violations and orders a Responsible Person to take certain steps to correct the violations.

"Notice of Compliance" means a document issued by a Director representing that a property complies with the criteria set forth in Section 12.1007 of this Code.

"Notice Of Satisfaction" means a document or form, approved by the City Manager, which indicates that all outstanding civil penalties and costs have either been paid in full, or that the City has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt.

"Notice Of Violation" means a written notice prepared by an Enforcement Official which informs a Responsible Person of code violations, requires compliance and contains specific information as required by the Municipal Code.

"Oath" includes affirmations and oaths.

"Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.

"Property Owner" means the record owner of real property based on the County Assessor's records.

"Public Nuisance" means any condition caused, maintained or permitted to exist which constitutes a threat to the public's health, safety and welfare or which significantly obstructs, injures or interferes with the reasonable or free

use of property in a neighborhood, community or to any considerable number of persons. A public nuisance also has the same meaning as set forth in California Civil Code Section 3479.

"Responsible Person" means a person who a Director determines is responsible for causing or maintaining a public nuisance or a violation of the Municipal Code or applicable state codes. The term "Responsible Person" includes but is

not limited to a property owner, tenant, person with a Legal Interest in real property or person in possession of real property.

"Written" includes printed, typewritten, mimeographed, multigraphed, printout by computer, facsimile and those items listed in California Evidence Code Section 250.

(Amended 2-13-1995 by O-18161 N.S.)